
SECOND SUBSTITUTE SENATE BILL 6230

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl, Fairley and Thibaudeau)

Read first time 02/06/96.

1 AN ACT Relating to child care services; amending RCW 74.13.090,
2 43.43.830, 43.43.832, 43.43.834, and 43.43.838; reenacting and amending
3 RCW 74.15.020 and 43.43.840; adding new sections to chapter 74.15 RCW;
4 adding a new section to chapter 43.43 RCW; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that consumers of
7 child care services have a legitimate interest in receiving timely
8 information about complaints against child care service providers in
9 order to make meaningful choices regarding the facilities and people
10 who provide care for their children. The legislature further finds
11 that as a result of improvements in information management systems, the
12 state's ability to provide relevant information to child care service
13 consumers has also improved.

14 The legislature intends to utilize the state's improved ability to
15 collect and manage information about complaints against child care
16 service providers by requiring the department of social and health
17 services to report all relevant licensing actions and complaints
18 alleging serious issues affecting the health and safety of children to
19 appropriate individuals and organizations in a timely manner. The

1 legislature further intends to authorize the department to report such
2 information to the general public when necessary and appropriate for
3 the health and safety of children.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.15 RCW
5 to read as follows:

6 (1) The department shall report any adverse licensing actions
7 against a child day-care center or family day-care provider taken under
8 this chapter as a result of serious issues affecting the health and
9 safety of children as follows: (a) Within two business days of taking
10 the action, by posting for at least two weeks a prominent notice of the
11 licensing action at the facility; and (b) within two business days of
12 taking the action, by notifying the referent and appropriate public or
13 private child care resource and referral agencies. Upon request, a
14 center or provider subject to an adverse licensing action under this
15 chapter shall provide the department, within two business days, a
16 complete list of the names, addresses, and telephone numbers of its
17 current clients. The report shall include a description of the grounds
18 for the adverse licensing action.

19 (2) The department shall report any complaints against a child day-
20 care center or family day-care provider alleging serious issues
21 affecting the health and safety of children that are determined to be
22 well-founded or valid as follows: (a) Within two business days of
23 making the determination, by posting for at least two weeks a prominent
24 notice of the determination at the facility; and (b) within two
25 business days of making the determination, by notifying the referent
26 and appropriate public or private child care resource and referral
27 agencies. Upon request, a center or provider subject to a complaint
28 that must be reported under this subsection shall provide the
29 department, within two business days, a complete list of the names,
30 addresses, and telephone numbers of its current clients. The report
31 shall include a description of the well-founded or valid allegations
32 and a summary of the resolution of the complaint or the follow-up
33 actions taken by the department and the center or provider in response
34 to the complaint.

35 (3) The department is authorized to report to the general public
36 and counterpart licensing departments in other states, as may be
37 necessary and appropriate to protect the health or safety of children,

1 any information that is required to be reported under subsection (1) or
2 (2) of this section.

3 (4) If the child day-care center or family day-care provider is
4 later found to have not committed the acts or conduct justifying the
5 adverse licensing action or alleged in a complaint reported under
6 subsection (1), (2), or (3) of this section, the department shall
7 forthwith prepare a notice of public exoneration. Such notice shall
8 also be maintained as part of the department's permanent record of the
9 licensing action or complaint.

10 (5) The department shall disclose, upon request, the receipt,
11 general nature, and resolution or current status of all complaints on
12 record with the department after the effective date of this act against
13 a child day-care center or family day-care provider alleging serious
14 issues affecting the health and safety of children, regardless of
15 whether an investigation is pending or the complaint has been
16 determined to be invalid, inconclusive, or unfounded.

17 (6) This section shall not be construed to require the reporting of
18 any information that is exempt from public disclosure under chapter
19 42.17 RCW.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.15 RCW
21 to read as follows:

22 At any time during a pending adverse licensing action, a pending
23 investigation of a complaint alleging serious issues affecting the
24 health and safety of children, or an ongoing corrective action plan,
25 the department may, as necessary and appropriate to protect the health
26 or safety of children, (a) place a child day-care center or family day-
27 care provider on nonreferral status, and (b) notify appropriate public
28 and private child care resource and referral agencies of the
29 department's investigation and decision to place the center or provider
30 on nonreferral status.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.15 RCW
32 to read as follows:

33 (1) The department shall compile an annual report summarizing all
34 investigations for the previous fiscal year relating to serious issues
35 affecting the health or safety of children in the care of child day-
36 care centers and family day-care providers. The report shall be
37 provided to the legislature, the child care coordinating committee, and

1 child care resource and referral agencies by August 1st of each year
2 beginning in 1997.

3 (2) The report shall include, at a minimum, (a) an analysis of the
4 volume and general nature of all reports and disclosures made by the
5 department as required or authorized under section 2 of this act; (b)
6 an analysis of the volume and general nature of the pending adverse
7 licensing actions, pending complaint investigations, and ongoing
8 corrective action plans for which the department placed centers and
9 providers on nonreferral status under section 3 of this act; (c) an
10 analysis of the volume and general nature of complaints determined to
11 be invalid, inconclusive, or unfounded; and (d) information about the
12 average length of time required by the department to complete
13 investigations determined to be valid or well-founded, inconclusive,
14 and invalid or unfounded.

15 **Sec. 5.** RCW 74.15.020 and 1995 c 311 s 18 and 1995 c 302 s 3 are
16 each reenacted and amended to read as follows:

17 For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless
18 otherwise clearly indicated by the context thereof, the following terms
19 shall mean:

20 (1) (~~"Department" means the state department of social and health~~
21 ~~services;~~

22 ~~(2) "Secretary" means the secretary of social and health services;~~

23 ~~(3))~~ "Adverse licensing action" means a denial, suspension,
24 revocation, or nonrenewal of a license authorized under this chapter.

25 (2) "Agency" means any person, firm, partnership, association,
26 corporation, or facility which receives children, expectant mothers, or
27 persons with developmental disabilities for control, care, or
28 maintenance outside their own homes, or which places, arranges the
29 placement of, or assists in the placement of children, expectant
30 mothers, or persons with developmental disabilities for foster care or
31 placement of children for adoption, and shall include the following
32 irrespective of whether there is compensation to the agency or to the
33 children, expectant mothers or persons with developmental disabilities
34 for services rendered:

35 (a) "Group-care facility" means an agency, other than a foster-
36 family home, which is maintained and operated for the care of a group
37 of children on a twenty-four hour basis;

1 (b) "Child-placing agency" means an agency which places a child or
2 children for temporary care, continued care, or for adoption;

3 (c) "Maternity service" means an agency which provides or arranges
4 for care or services to expectant mothers, before or during
5 confinement, or which provides care as needed to mothers and their
6 infants after confinement;

7 (d) "Child day-care center" means an agency which regularly
8 provides care for a group of children for periods of less than twenty-
9 four hours;

10 (e) "Family day-care provider" means a child day-care provider who
11 regularly provides child day care for not more than twelve children in
12 the provider's home in the family living quarters;

13 (f) "Foster-family home" means an agency which regularly provides
14 care on a twenty-four hour basis to one or more children, expectant
15 mothers, or persons with developmental disabilities in the family abode
16 of the person or persons under whose direct care and supervision the
17 child, expectant mother, or person with a developmental disability is
18 placed;

19 (g) "Crisis residential center" means an agency which is a
20 temporary protective residential facility operated to perform the
21 duties specified in chapter 13.32A RCW, in the manner provided in RCW
22 74.13.032 through 74.13.036.

23 (~~((4))~~) (3) "Agency" shall not include the following:

24 (a) Persons related to the child, expectant mother, or person with
25 developmental disabilities in the following ways:

26 (i) Any blood relative, including those of half blood, and
27 including first cousins, nephews or nieces, and persons of preceding
28 generations as denoted by prefixes of grand, great, or great-great;

29 (ii) Stepfather, stepmother, stepbrother, and stepsister;

30 (iii) A person who legally adopts a child or the child's parent as
31 well as the natural and other legally adopted children of such persons,
32 and other relatives of the adoptive parents in accordance with state
33 law;

34 (iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this
35 subsection, even after the marriage is terminated; or

36 (v) Extended family members, as defined by the law or custom of the
37 Indian child's tribe or, in the absence of such law or custom, a person
38 who has reached the age of eighteen and who is the Indian child's
39 grandparent, aunt or uncle, brother or sister, brother-in-law or

1 sister-in-law, niece or nephew, first or second cousin, or stepparent
2 who provides care in the family abode on a twenty-four-hour basis to an
3 Indian child as defined in 25 U.S.C. Sec. 1903(4);

4 (b) Persons who are legal guardians of the child, expectant mother,
5 or persons with developmental disabilities;

6 (c) Persons who care for a neighbor's or friend's child or
7 children, with or without compensation, where: (i) The person
8 providing care for periods of less than twenty-four hours does not
9 conduct such activity on an ongoing, regularly scheduled basis for the
10 purpose of engaging in business, which includes, but is not limited to,
11 advertising such care; or (ii) the parent and person providing care on
12 a twenty-four-hour basis have agreed to the placement in writing and
13 the state is not providing any payment for the care;

14 (d) Parents on a mutually cooperative basis exchange care of one
15 another's children;

16 (e) A person, partnership, corporation, or other entity that
17 provides placement or similar services to exchange students or
18 international student exchange visitors or persons who have the care of
19 an exchange student in their home;

20 (f) Nursery schools or kindergartens which are engaged primarily in
21 educational work with preschool children and in which no child is
22 enrolled on a regular basis for more than four hours per day;

23 (g) Schools, including boarding schools, which are engaged
24 primarily in education, operate on a definite school year schedule,
25 follow a stated academic curriculum, accept only school-age children
26 and do not accept custody of children;

27 (h) Seasonal camps of three months' or less duration engaged
28 primarily in recreational or educational activities;

29 (i) Hospitals licensed pursuant to chapter 70.41 RCW when
30 performing functions defined in chapter 70.41 RCW, nursing homes
31 licensed under chapter 18.51 RCW and boarding homes licensed under
32 chapter 18.20 RCW;

33 (j) Licensed physicians or lawyers;

34 (k) Facilities providing care to children for periods of less than
35 twenty-four hours whose parents remain on the premises to participate
36 in activities other than employment;

37 (l) Facilities approved and certified under chapter 71A.22 RCW;

38 (m) Any agency having been in operation in this state ten years
39 prior to June 8, 1967, and not seeking or accepting moneys or

1 assistance from any state or federal agency, and is supported in part
2 by an endowment or trust fund;

3 (n) Persons who have a child in their home for purposes of
4 adoption, if the child was placed in such home by a licensed child-
5 placing agency, an authorized public or tribal agency or court or if a
6 replacement report has been filed under chapter 26.33 RCW and the
7 placement has been approved by the court;

8 (o) An agency operated by any unit of local, state, or federal
9 government or an agency, located within the boundaries of a federally
10 recognized Indian reservation, licensed by the Indian tribe;

11 (p) An agency located on a federal military reservation, except
12 where the military authorities request that such agency be subject to
13 the licensing requirements of this chapter.

14 (4) "Department" means the state department of social and health
15 services.

16 (5) "Probationary license" means a license issued as a disciplinary
17 measure to an agency that has previously been issued a full license but
18 is out of compliance with licensing standards.

19 (6) "Referent" means a person or agency who brings to the attention
20 of the department a complaint or information resulting in an
21 investigation or adverse licensing action.

22 (7) "Requirement" means any rule, regulation, or standard of care
23 to be maintained by an agency.

24 ~~((6) "Probationary license" means a license issued as a~~
25 ~~disciplinary measure to an agency that has previously been issued a~~
26 ~~full license but is out of compliance with licensing standards.))~~

27 (8) "Secretary" means the secretary of social and health services.

28 (9) "Serious issues affecting the health and safety of children"
29 means allegations, which if true, place children at serious risk of
30 harm. Such allegations may include, but are not limited to,
31 allegations of child abuse or neglect or allegations of licensing
32 violations related to safety or health hazards, supervision problems,
33 accidental injuries, or excessive discipline or mistreatment of a
34 child.

35 NEW SECTION. Sec. 6. The department of social and health services
36 shall adopt rules as necessary to implement this act.

1 **Sec. 7.** RCW 74.13.090 and 1995 c 399 s 204 are each amended to
2 read as follows:

3 (1) There is established a child care coordinating committee to
4 provide coordination and communication between state agencies
5 responsible for child care and early childhood education services. The
6 child care coordinating committee shall be composed of not less than
7 seventeen nor more than thirty-three members who shall include:

8 (a) One representative each from the department of social and
9 health services, the department of community, trade, and economic
10 development, the office of the superintendent of public instruction,
11 and any other agency having responsibility for regulation, provision,
12 or funding of child care services in the state;

13 (b) One representative from the department of labor and industries;

14 (c) One representative from the department of revenue;

15 (d) One representative from the employment security department;

16 (e) One representative from the department of personnel;

17 (f) One representative from the department of health;

18 (g) At least one representative of family home child care providers
19 and one representative of center care providers;

20 (h) At least one representative of early childhood development
21 experts;

22 (i) At least one representative of school districts and teachers
23 involved in the provision of child care and preschool programs;

24 (j) At least one parent education specialist;

25 (k) At least one representative of resource and referral programs;

26 (l) One pediatric or other health professional;

27 (m) At least one representative of college or university child care
28 providers;

29 (n) At least one representative of a citizen group concerned with
30 child care;

31 (o) At least one representative of a labor organization;

32 (p) At least one representative of a head start - early childhood
33 education assistance program agency;

34 (q) At least one employer who provides child care assistance to
35 employees;

36 (r) Parents of children receiving, or in need of, child care, half
37 of whom shall be parents needing or receiving subsidized child care and
38 half of whom shall be parents who are able to pay for child care.

1 The named state agencies shall select their representative to the
2 child care coordinating committee. The department of social and health
3 services shall select the remaining members, considering
4 recommendations from lists submitted by professional associations and
5 other interest groups until such time as the committee adopts a member
6 selection process. The department shall use any federal funds which
7 may become available to accomplish the purposes of RCW 74.13.085
8 through 74.13.095.

9 The committee shall elect officers from among its membership and
10 shall adopt policies and procedures specifying the lengths of terms,
11 methods for filling vacancies, and other matters necessary to the
12 ongoing functioning of the committee. The secretary of social and
13 health services shall appoint a temporary chair until the committee has
14 adopted policies and elected a chair accordingly. Child care
15 coordinating committee members shall be reimbursed for travel expenses
16 as provided in RCW 43.03.050 and 43.03.060.

17 (2) To the extent possible within available funds, the child care
18 coordinating committee shall:

19 (a) Serve as an advisory coordinator for all state agencies
20 responsible for early childhood or child care programs for the purpose
21 of improving communication and interagency coordination;

22 (b) Annually review state programs and make recommendations to the
23 agencies and the legislature which will maximize funding and promote
24 furtherance of the policies set forth in RCW 74.13.085. Reports shall
25 be provided to all appropriate committees of the legislature by
26 December 1 of each year. At a minimum the committee shall:

27 (i) Review and propose changes to the child care subsidy system
28 (~~in its December 1989 report~~);

29 (ii) Review alternative models for child care service systems, in
30 the context of the policies set forth in RCW 74.13.085, and recommend
31 to the legislature a new child care service structure; and

32 (iii) Review options and make recommendations on the feasibility of
33 establishing an allocation for day care facilities when constructing
34 state buildings;

35 (c) Review department of social and health services administration
36 of the child care expansion grant program described in RCW 74.13.095;

37 (d) Review rules regarding child care facilities and services for
38 the purpose of identifying those which unnecessarily obstruct the
39 availability and affordability of child care in the state;

1 (e) Advise and assist the office of child care policy in
2 implementing his or her duties under RCW 74.13.0903;

3 (f) Perform other functions to improve the quantity and quality of
4 child care in the state, including compliance with existing and future
5 prerequisites for federal funding; (~~and~~)

6 (g) Advise and assist the department of personnel in its
7 responsibility for establishing policies and procedures that provide
8 for the development of quality child care programs for state employees;
9 and

10 (h) Review the department's annual reports required under section
11 4 of this act. The committee shall make recommendations to the
12 legislature as necessary to improve the availability of information in
13 the department's possession that is relevant to making meaningful
14 choices regarding child day-care centers and family day-care providers.

15 NEW SECTION. Sec. 8. A new section is added to chapter 43.43 RCW
16 to read as follows:

17 The legislature finds that businesses and organizations, in order
18 to continue to provide safe, quality services to children,
19 developmentally disabled persons, and vulnerable adults, must be
20 adequately informed of the continued eligibility of employees,
21 licensees, and volunteers. The legislature also finds that
22 developmentally disabled persons and vulnerable adults who have
23 directly hired employees, licensees, or volunteers must be similarly
24 informed. The legislature further finds that businesses and
25 organizations, developmentally disabled persons, and vulnerable adults
26 need the ability to make subsequent background checks of an employee,
27 licensee, or volunteer on a biennial basis. While chapter ..., Laws of
28 1996 (this act) imposes no requirement to make biennial background
29 checks, the legislature intends to allow for additional background
30 checks at the discretion of the business or organization,
31 developmentally disabled person, or vulnerable adult.

32 **Sec. 9.** RCW 43.43.830 and 1995 c 250 s 1 are each amended to read
33 as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout RCW 43.43.830 through 43.43.840.

36 (1) "Applicant" means:

1 (a) Any prospective employee who will or may have unsupervised
2 access to children under sixteen years of age or developmentally
3 disabled persons or vulnerable adults during the course of his or her
4 employment or involvement with the business or organization;

5 (b) Any prospective volunteer who will have regularly scheduled
6 unsupervised access to children under sixteen years of age,
7 developmentally disabled persons, or vulnerable adults during the
8 course of his or her (~~employment or~~) involvement with the business or
9 organization under circumstances where such access will or may involve
10 groups of (i) five or fewer children under twelve years of age, (ii)
11 three or fewer children between twelve and sixteen years of age, (iii)
12 developmentally disabled persons, or (iv) vulnerable adults; or

13 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

14 (2) "Employee" means a person who has unsupervised access to
15 children under sixteen years of age, developmentally disabled persons,
16 or vulnerable adults, during the course of his or her employment or
17 involvement with the business or organization, developmentally disabled
18 person, or vulnerable adult.

19 (3) "Licensee" means any person who has received from a business or
20 organization express or implied permission to provide services to
21 children, developmentally disabled persons, or vulnerable adults and
22 has unsupervised access to children under sixteen years of age,
23 developmentally disabled persons, or vulnerable adults, during the
24 course of his or her involvement with the business or organization.

25 (4) "Volunteer" means any person who has regularly scheduled
26 unsupervised access to children under sixteen years of age,
27 developmentally disabled persons, or vulnerable adults, during the
28 course of his or her involvement with the business or organization,
29 developmentally disabled person, or vulnerable adult, if such access
30 will or may involve groups of (a) five or fewer children under twelve
31 years of age, (b) three or fewer children between twelve and sixteen
32 years of age, (c) developmentally disabled persons, or (d) vulnerable
33 adults.

34 (5) "Business or organization" means a business or organization
35 licensed in this state, any agency of the state, or other governmental
36 entity, that educates, trains, treats, supervises, houses, or provides
37 recreation to developmentally disabled persons, vulnerable adults, or
38 children under sixteen years of age, including but not limited to

1 public housing authorities, school districts, and educational service
2 districts.

3 ~~((+3))~~ (6) "Civil adjudication" means a specific court finding of
4 sexual abuse or exploitation or physical abuse in a dependency action
5 under RCW 13.34.040 or in a domestic relations action under Title 26
6 RCW. In the case of vulnerable adults, civil adjudication means a
7 specific court finding of abuse or financial exploitation in a
8 protection proceeding under chapter 74.34 RCW. It does not include
9 administrative proceedings. The term "civil adjudication" is further
10 limited to court findings that identify as the perpetrator of the abuse
11 a named individual, over the age of eighteen years, who was a party to
12 the dependency or dissolution proceeding or was a respondent in a
13 protection proceeding in which the finding was made and who contested
14 the allegation of abuse or exploitation.

15 ~~((+4))~~ (7) "Conviction record" means "conviction record"
16 information as defined in RCW 10.97.030(3) relating to a crime against
17 children or other persons committed by either an adult or a juvenile.
18 It does not include a conviction for an offense that has been the
19 subject of an expungement, pardon, annulment, certificate of
20 rehabilitation, or other equivalent procedure based on a finding of the
21 rehabilitation of the person convicted, or a conviction that has been
22 the subject of a pardon, annulment, or other equivalent procedure based
23 on a finding of innocence. It does include convictions for offenses
24 for which the defendant received a deferred or suspended sentence,
25 unless the record has been expunged according to law.

26 ~~((+5))~~ (8) "Crime against children or other persons" means a
27 conviction of any of the following offenses: Aggravated murder; first
28 or second degree murder; first or second degree kidnaping; first,
29 second, or third degree assault; first, second, or third degree assault
30 of a child; first, second, or third degree rape; first, second, or
31 third degree rape of a child; first or second degree robbery; first
32 degree arson; first degree burglary; first or second degree
33 manslaughter; first or second degree extortion; indecent liberties;
34 incest; vehicular homicide; first degree promoting prostitution;
35 communication with a minor; unlawful imprisonment; simple assault;
36 sexual exploitation of minors; first or second degree criminal
37 mistreatment; child abuse or neglect as defined in RCW 26.44.020; first
38 or second degree custodial interference; malicious harassment; first,
39 second, or third degree child molestation; first or second degree

1 sexual misconduct with a minor; first or second degree rape of a child;
2 patronizing a juvenile prostitute; child abandonment; promoting
3 pornography; selling or distributing erotic material to a minor;
4 custodial assault; violation of child abuse restraining order; child
5 buying or selling; prostitution; felony indecent exposure; criminal
6 abandonment; or any of these crimes as they may be renamed in the
7 future.

8 ~~((+6+))~~ (9) "Crimes relating to financial exploitation" means a
9 conviction for first, second, or third degree extortion; first, second,
10 or third degree theft; first or second degree robbery; forgery; or any
11 of these crimes as they may be renamed in the future.

12 ~~((+7+))~~ (10) "Disciplinary board final decision" means any final
13 decision issued by a disciplining authority under chapter 18.130 RCW or
14 the secretary of the department of health for the following businesses
15 or professions:

- 16 (a) Chiropractic;
- 17 (b) Dentistry;
- 18 (c) Dental hygiene;
- 19 (d) Massage;
- 20 (e) Midwifery;
- 21 (f) Naturopathy;
- 22 (g) Osteopathy;
- 23 (h) Physical therapy;
- 24 (i) Physicians;
- 25 (j) Practical nursing;
- 26 (k) Registered nursing; and
- 27 (l) Psychology.

28 "Disciplinary board final decision," for real estate brokers and
29 salespersons, means any final decision issued by the director of the
30 department of licensing for real estate brokers and salespersons.

31 ~~((+8+))~~ (11) "Unsupervised" means not in the presence of:

- 32 (a) Another employee or volunteer from the same business or
33 organization as the applicant; or
- 34 (b) Any relative or guardian of any of the children or
35 developmentally disabled persons or vulnerable adults to which the
36 applicant has access during the course of his or her employment or
37 involvement with the business or organization.

38 ~~((+9+))~~ (12) "Vulnerable adult" means "vulnerable adult" as defined
39 in chapter 74.34 RCW, except that for the purposes of requesting and

1 receiving background checks pursuant to RCW 43.43.832, it shall also
2 include adults of any age who lack the functional, mental, or physical
3 ability to care for themselves.

4 ~~((10))~~ (13) "Financial exploitation" means the illegal or
5 improper use of a vulnerable adult or that adult's resources for
6 another person's profit or advantage.

7 ~~((11))~~ (14) "Agency" means any person, firm, partnership,
8 association, corporation, or facility which receives, provides services
9 to, houses or otherwise cares for vulnerable adults.

10 **Sec. 10.** RCW 43.43.832 and 1995 c 250 s 2 are each amended to read
11 as follows:

12 (1) The legislature finds that businesses and organizations
13 providing services to children, developmentally disabled persons, and
14 vulnerable adults need adequate information to determine which
15 employees ~~((or))~~, licensees, or volunteers to hire ~~((or))~~, engage, or
16 retain. The legislature further finds that many developmentally
17 disabled individuals and vulnerable adults desire to hire their own
18 employees directly and also need adequate information to determine
19 which employees ~~((or))~~, licensees, or volunteers to hire ~~((or))~~,
20 engage, or retain. Therefore, ~~((the Washington state patrol criminal~~
21 ~~identification system may disclose, upon the request of))~~ a business or
22 organization as defined in RCW 43.43.830, a developmentally disabled
23 person, or a vulnerable adult as defined in RCW 43.43.830, or his or
24 her guardian, may receive upon request from the Washington state patrol
25 criminal identification system an ((applicant's)) applicant, employee,
26 licensee, or volunteer's record for convictions of offenses against
27 children or other persons, convictions for crimes relating to financial
28 exploitation, but only if the victim was a vulnerable adult,
29 adjudications of child abuse in a civil action, the issuance of a
30 protection order against the respondent under chapter 74.34 RCW, and
31 disciplinary board final decisions and any subsequent criminal charges
32 associated with the conduct that is the subject of the disciplinary
33 board final decision. When necessary, applicants may be employed on a
34 conditional basis pending completion of such a background
35 investigation.

36 (2) The legislature also finds that the state board of education
37 may request of the Washington state patrol criminal identification

1 system information regarding a certificate applicant's record for
2 convictions under subsection (1) of this section.

3 (3) The legislature also finds that law enforcement agencies, the
4 office of the attorney general, prosecuting authorities, and the
5 department of social and health services may request this same
6 information to aid in the investigation and prosecution of child,
7 developmentally disabled person, and vulnerable adult abuse cases and
8 to protect children and adults from further incidents of abuse.

9 (4) The legislature further finds that the department of social and
10 health services, when considering persons for state positions directly
11 responsible for the care, supervision, or treatment of children,
12 developmentally disabled persons, or vulnerable adults or when
13 licensing or authorizing such persons or agencies pursuant to its
14 authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any
15 later-enacted statute which purpose is to license or regulate a
16 facility which handles vulnerable adults, must consider the information
17 listed in subsection (1) of this section. However, when necessary,
18 persons may be employed on a conditional basis pending completion of
19 the background investigation. The Washington personnel resources board
20 shall adopt rules to accomplish the purposes of this subsection as it
21 applies to state employees.

22 (5) Nonprofit organizations may not have access to the information
23 provided under this section regarding volunteers, until July 1, 1997.

24 **Sec. 11.** RCW 43.43.834 and 1990 c 3 s 1103 are each amended to
25 read as follows:

26 (1) A business or organization shall not make an inquiry to the
27 Washington state patrol under RCW 43.43.832 or an equivalent inquiry to
28 a federal law enforcement agency unless the business or organization
29 has: (a) Notified the applicant who has been offered a position as an
30 employee or volunteer((7)) that an inquiry may be made; or (b) notified
31 the employee, licensee, or volunteer that an inquiry may be made.

32 (2) A business or organization shall require each applicant,
33 employee, licensee, and volunteer, to disclose to the business or
34 organization whether the applicant, employee, licensee, or volunteer
35 has been:

36 (a) Convicted of any crime against children or other persons;

37 (b) Convicted of crimes relating to financial exploitation if the
38 victim was a vulnerable adult;

1 (c) Found in any dependency action under RCW 13.34.040 to have
2 sexually assaulted or exploited any minor or to have physically abused
3 any minor;

4 (d) Found by a court in a domestic relations proceeding under Title
5 26 RCW to have sexually abused or exploited any minor or to have
6 physically abused any minor;

7 (e) Found in any disciplinary board final decision to have sexually
8 or physically abused or exploited any minor or developmentally disabled
9 person or to have abused or financially exploited any vulnerable adult;
10 or

11 (f) Found by a court in a protection proceeding under chapter 74.34
12 RCW, to have abused or financially exploited a vulnerable adult.

13 The disclosure shall be made in writing and signed by the
14 applicant, employee, licensee, or volunteer and sworn under penalty of
15 perjury. The disclosure sheet shall specify all crimes against
16 children or other persons and all crimes relating to financial
17 exploitation as defined in RCW 43.43.830 in which the victim was a
18 vulnerable adult.

19 (3) The business or organization shall pay such reasonable fee for
20 the records check as the state patrol may require under RCW 43.43.838.

21 (4) The business or organization shall notify the applicant,
22 employee, licensee, or volunteer of the state patrol's response within
23 ten days after receipt by the business or organization. The employer
24 shall provide a copy of the response to the applicant, employee,
25 licensee, or volunteer and shall notify the applicant, employee,
26 licensee, or volunteer of such availability.

27 (5) The business or organization shall use this record only in:
28 (a) Making the initial employment or engagement decision; or (b)
29 conducting biennial reviews to assure the continued eligibility of
30 employees, licensees, and volunteers to have unsupervised access to
31 children, developmentally disabled persons, or vulnerable adults.
32 Further dissemination or use of the record is prohibited. A business
33 or organization violating this subsection is subject to a civil action
34 for damages.

35 (6) An insurance company shall not require a business or
36 organization to request background information on any employee before
37 issuing a policy of insurance.

38 (7) The business and organization shall be immune from civil
39 liability for failure to request background information on an

1 applicant, employee, licensee, or volunteer unless the failure to do so
2 constitutes gross negligence.

3 (8) This section shall not apply to nonprofit organizations making
4 inquiries regarding volunteers or making inquiries in connection with
5 conducting biennial reviews, until July 1, 1997.

6 **Sec. 12.** RCW 43.43.838 and 1995 c 29 s 1 are each amended to read
7 as follows:

8 (1) (~~After January 1, 1988, and~~) Notwithstanding any provision of
9 RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall
10 furnish a transcript of the conviction record, disciplinary board final
11 decision and any subsequent criminal charges associated with the
12 conduct that is the subject of the disciplinary board final decision,
13 or civil adjudication record pertaining to any person for whom the
14 state patrol or the federal bureau of investigation has a record upon
15 the written request of:

16 (a) The subject of the inquiry;

17 (b) Any business or organization, developmentally disabled person,
18 or vulnerable adult, for the purpose of conducting evaluations under
19 RCW 43.43.832;

20 (c) The department of social and health services;

21 (d) Any law enforcement agency, prosecuting authority, or the
22 office of the attorney general; or

23 (e) The department of social and health services for the purpose of
24 meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or
25 72.23 RCW, or any later-enacted statute which purpose is to regulate or
26 license a facility which handles vulnerable adults. However, access to
27 conviction records pursuant to this subsection (1)(e) does not limit or
28 restrict the ability of the department to obtain additional information
29 regarding conviction records and pending charges as set forth in RCW
30 74.15.030(2)(b).

31 After processing the request, if the conviction record,
32 disciplinary board final decision and any subsequent criminal charges
33 associated with the conduct that is the subject of the disciplinary
34 board final decision, or adjudication record shows no evidence of a
35 crime against children or other persons or, in the case of vulnerable
36 adults, no evidence of crimes relating to financial exploitation in
37 which the victim was a vulnerable adult, an identification declaring
38 the showing of no evidence shall be issued to the (~~business or~~

1 organization)) recipients identified in subsection (1)(b) of this
2 section by the state patrol and shall be issued within fourteen working
3 days of the request. The (~~(business or organization))~~ recipient shall
4 provide a copy of the identification declaring the showing of no
5 evidence to the applicant, employee, licensee, or volunteer.
6 Possession of such identification shall satisfy future record check
7 requirements for the applicant, employee, licensee, or volunteer for a
8 two-year period unless the prospective employee is any current school
9 district employee who has applied for a position in another school
10 district.

11 (2) The state patrol shall by rule establish fees for disseminating
12 records under this section to recipients identified in subsection
13 (1)(a) and (b) of this section. The state patrol shall also by rule
14 establish fees for disseminating records in the custody of the national
15 crime information center. The revenue from the fees shall cover, as
16 nearly as practicable, the direct and indirect costs to the state
17 patrol of disseminating the records: PROVIDED, That no fee shall be
18 charged to a nonprofit organization for the initial records check of a
19 prospective employee, licensee, or volunteer: PROVIDED FURTHER, That
20 in the case of record checks using fingerprints requested by school
21 districts and educational service districts, the state patrol shall
22 charge only for the incremental costs associated with checking
23 fingerprints in addition to name and date of birth. Record checks
24 requested by school districts and educational service districts using
25 only name and date of birth shall continue to be provided free of
26 charge.

27 (3) No employee of the state, employee of a business or
28 organization, or (~~the business or organization~~) recipient identified
29 in subsection (1)(b) of this section is liable for defamation, invasion
30 of privacy, negligence, or any other claim in connection with any
31 lawful dissemination of information under RCW 43.43.830 through
32 43.43.840 or 43.43.760.

33 (4) (~~Before July 26, 1987,~~) The state patrol shall adopt rules
34 and forms to implement this section and to provide for security and
35 privacy of information disseminated under this section, giving first
36 priority to the criminal justice requirements of this chapter. The
37 rules may include requirements for users, audits of users, and other
38 procedures to prevent use of civil adjudication record information or
39 criminal history record information inconsistent with this chapter.

1 (5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an
2 employer to make an inquiry not specifically authorized by this
3 chapter, or be construed to affect the policy of the state declared in
4 chapter 9.96A RCW.

5 (6) Nonprofit organizations may not have access to the information
6 provided under subsection (1)(b) of this section regarding volunteers,
7 until July 1, 1997.

8 **Sec. 13.** RCW 43.43.840 and 1989 c 334 s 5 and 1989 c 90 s 5 are
9 each reenacted and amended to read as follows:

10 (1) The supreme court shall by rule require the courts of the state
11 to notify the state patrol of any dependency action under RCW
12 (~~(13.34.030(2)(b))~~) 13.34.040, domestic relations action under Title 26
13 RCW, or protection action under chapter 74.34 RCW, in which the court
14 makes specific findings of physical abuse or sexual abuse or
15 exploitation of a child or abuse or financial exploitation of a
16 vulnerable adult.

17 (2) The department of licensing shall notify the state patrol of
18 any disciplinary board final decision that includes specific findings
19 of physical abuse or sexual abuse or exploitation of a child or abuse
20 or financial exploitation of a vulnerable adult.

21 (3) When a business or an organization terminates, fires,
22 dismisses, fails to renew the contract, or permits the resignation of
23 an employee because of crimes against children or other persons or
24 because of crimes relating to the financial exploitation of a
25 vulnerable adult, and if that employee is employed in a position
26 requiring a certificate or license issued by a licensing agency such as
27 the state board of education, the business or organization shall notify
28 the licensing agency of such termination of employment.

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